GOVERNMENT OF ANDHRA PRADESH

**ABSTRACT**

PUBLIC SERVICES – Prohibition & Excise Department – Sri M.Siva Prasad, Assistant Prohibition and Excise Superintendent, Penukonda- Relaxation of rule 33(a) of AP State and Subordinate Service Rules , 1996 for assigning notional promotion in the category of Assistant Prohibition and Excise Superintendent with effect from 06-05-2006– Orders - Issued.

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REVENUE (EXCISE-I) DEPARTMENT

**G.O.Ms.No. 38 .** **Dated: 17 .01.2011**

Read the following:

1. From the Commissioner of Prohibition and Excise, Hyderabad.Lr.Cr.No.13837/2005/CPE/L1, dt.09.02.2010.
2. Govt. Memo No. 7065/Ex-I(1)/2010-1, Dt: 25.03.2010.
3. From the Commissioner of Prohibition and Excise, Hyderabad.Lr.Cr.No.13837/2005/CPE/L1, dt.07.10.2010.

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***O R D E R:***

In the reference first read above, the Commissioner of Prohibition & Excise, A.P., Hyderabad has stated that Sri M. Siva Prasad was appointed by transfer as Asst. Chemical Examiner and joined on 1-1-1996. He belongs to Zone-IV. His probation in the cadre of Asst. Chemical Examiner was declared by 31.12.1997.Sri M.Siva Prasad, Assistant Proh.& Excise Superintendent of Multi-Zone-II has submitted a representation and requested to assign notional date of promotion in the cadre of Asst. Prohibition & Excise Superintendent- w.e.f.6-5-2006 i.e., the date on which his juniors were promoted as Asst. Prohibition & Excise Superintendents as his name was included in the panel year 2005-06 by the Review Departmental Promotion Committee held on 15-4-2008 and also requested to include his name in the panel of Asst. Prohibition & Excise Superintendents for promotion as Prohibition & Excise Superintendent by including his name in the seniority list of Asst. Prohibition & Excise Superintendents.

2. The Commissioner of Prohibition and Excise, Hyderabad has further stated that the Review Screening Committee held on 15-4-2008, after going through the ACRs, relevant records and other material papers, relating to Sri M.Siva Prasad, Asst. Chemical Examiner, and after making an overall assessment of his service recommended that Sri M.Siva Prasad, Asst. Chemical Examiner, be included at Sl.No.7 at cyclic point No.90 at R.P.No.6 in the approved adhoc panel of Assistant Prohibition and Excise Superintendents of M.Z-II for the year 2005-06 and fit for promotion. He also suggested that the remaining names as approved by the Screening Committee dt 06.05.2006, may be slotted at appropriate Cyclic/Roster points at the time of preparation of regular panels.

3. As per the recommendations of the Review Screening Committee the individual was appointed by transfer as AP&ES on 17-4-2008.

4. The Commissioner of Prohibition and Excise has also stated that the individual on completion of one year in Assistant Prohibition and Excise Superintendent cadre has submitted representation on 19-5-2009 and requested for regularization of his services in the cadre of A.P&E.S. The individual has also filed O.A No.10838/2009 for promotion as Prohibition and Excise Superintendent . The Hon'ble APAT in its interim orders dated 9-10-2009 has ordered that.

> "The respondents are directed to pass orders on the representation of the applicant, dt;19-5-2009 within a period of four weeks from the date of receip of a copy of this order. Any promotions effected will be subject to the result of this O.A."

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*5.* The individual has also filed W.P.No.22040/2009 for the same relief. The Hon'ble High Court while dismissing the W.P., on 21-10-2009 has observed that:

> "Any, how, the subject matter of the writ petition is squrely covered by a Division Bench judgement of this Court in R.Manjula and Another Vs. Principal Secretary to Government, Revenue (Services.I) Department, Hyderabad and another wherein the Division Bench made the following order:
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> In the light of the foregoing discussion, we are of the considered opinion that this court in exercise of its jurisdiction under Article 226 of the Constitution of India would not normally interfere with the discretionary orders passed by the Tribunal Grant of an interlocutory order or refusal thereof is within the discretion of the 'Tribunal'. This court would not interfere with such discretion exercised by the Tribunal with regard to the interlocutory order or refusal thereof had resulted in an irreversible situation resulting in manifest justice. It would not be appropriate for this court to entertain any writ petition only for the purpose of granting an interim order during the pendency of the main proceedings before the Tribunal. However, it would be entirely a different matter if the discretion exercised by the Tribunal in the matter of granting reliefs results in incalculable repercussions and public mischief. In such cases where denial of interim orders may lead to public mischief, grave irreparable injury or shake a citizen's faith in the judicial process, it is not only the power but the duty of the court to interfere and grant appropriate relief accordingly. Suffice it to observe, interference of this Court with the exercise of discretion by the Tribunal at interlocutory stage is not a matter of course."

6. The Commissioner of Prohibition and Excise, Hyderabad has further stated that individual has requested for notional date of promotion w.e.f.6.5.2006 on par with individuals who were promoted as Assistant Prohibition and Excise Superintendents in pursuance of the Screening Committee recommendations on 6-5-2006. If notional date of promotion is to be assigned to the individual w.e.f.6.5.2006, the rule 33(a) of the AP State & Subordinate Service Rules, 1996 has to be relaxed in favour of the individual for which the Government is competent.

7. The Commissioner of Prohibition and Excise, Hyderabad in the reference 3rd read above has informed that notices have been issued to the persons likely to be affected to revision of panel of Asst. Excise Superintendent , for the year 2005-06 as per rule 24 of A.P. State and Subordinate Service Rules, 1996 and objections have also been disposed off.

8. After careful examination of the matter, Govt. hereby assign notional date of promotion to Sri M.Siva Prasad in the cadre of Assistant Prohibition and Excise Superintendent with effect from 06.05.2006 on par with his juniors, in the panel year 2005-06, in relaxation of Rule-33(a) of the AP State & Subordinate Service Rules, 1996.

9. The Commissioner of Prohibition & Excise, A.P., Hyderabad shall take necessary further action in the matter.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

ASUTOSH MISHRA,
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner of Prohibition & Excise, A.P., Hyderabad
The individual through CPE, A.P., Hyderabad
Copy to:
The Revenue (Vig-V) Department.
The General Administration (Ser-D) Department.
The PS to M (Proh &Excise) / The P.S. to Prl.Secy.(AM)
Sf/Sc

// FORWARDED:: BY ORDER//

SECTION OFFICER